

REMARKS

The examiner rejects claims 3, 4, 6, 9, 10, 12, 15, and 16 under 35 U.S.C. 112. These claims have been amended accordingly to overcome the rejection.

The examiner rejects claims 1 through 16 under 35 U.S.C. 103(a) as being unpatentable over *Streater* U.S. Patent 3,269,556 in view of *Ninni* U.S. Patent 5,082,125. The examiner states that *Streater* discloses a board of predetermined material having a top and bottom surface, a rear and front edge and a pair of side edges; a ridge extending upward from along the front edge of the board and at least one divider disposed on the top of the surface of the board having a front hook member and a rear hook member for hooking over the rear end of the board. There are three crucial differences between *Streater* and the present invention. First of all, *Streater* does not have a board as stated by the examiner. *Streater* teaches a basket made of interconnected metal rods. The examiner has defined a board as a flat usually rectangular piece of material. A series of interconnected rods does not fit the definition of a board in that such a series of interconnected rods is not truly flat as required in a board. Such a series of interconnected rods are full of gaps and holes and openings along the surface. In the present invention, the applicant teaches a board, which is a flat rectangular piece of material. Furthermore, the applicant teaches that the board has a flat top surface. The series of interconnected rods of *Streater* is definitely not a flat top surface. The second crucial difference is in the disposition of the divider. The examiner states that *Streater* teaches at least one divider disposed on the top of the surface of the board. In the present invention, the applicant claims that the divider is slideably disposed on the top surface of the board. The divider in *Streater* is not slideably placed. Moreover, it is not possible for the divider to be slideably placed on the series of interconnected rods because of the gaps and holes between the rods. The divider in *Streater* is not placed on top of a flat surface, and as such, the divider cannot slide on the surface. The third crucial difference is in the rear end of the board. The present invention has a flat top surface which ends at the rear end, and the divider hooks directly onto the rear end over the rear edge of the board. In *Streater*, the divider

hooks onto a raised portion protruding upward from the rear end. The raised portion protruding upward in *Streater* is not part of the board, and as such, the divider does not hook onto the board but a rod which connects upwards from the rear end of the board. In the present invention, the divider hooks directly onto the rear end of the board over the rear edge. As such, the applicant submits that these crucial differences between *Streater* and the present invention makes the present invention patentable over *Streater* even in view of *Ninni*.

The examiner states that the claims of the present invention differ from *Streater* in requiring (a) a divider slidably engaged to the rear and front surfaces of the board. The examiner states that *Ninni* discloses a divider for a display device that is slidably engaged to the rear and front surfaces, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of *Streater* for basic reasons such as ease of use and versatility of the device. The applicant submits that *Ninni* does not teach a divider that is slidably engaged to the rear and front surfaces. Rather, *Ninni* discloses a divider having arms which lock onto rods. In *Ninni*, the board has a front rod raised upward from the front edge of the board, and the board in *Ninni* has a back rod raised upward from the rear edge of the board. The divider in *Ninni* has a front arm which locks onto the front rod and a rear arm which locks onto the rear rod. In the present invention, the divider has a rear portion which slidably engages the rear end of the board. This is a crucial difference in that the rear arm of the divider in *Ninni* locks onto the rear rod, which is raised above the board, whereas the rear portion of the divider in the present invention hooks directly onto the rear end of the board itself in a manner allowing it to be slidable. Also, in *Ninni*, when the divider is placed onto the front and rear rod, the divider is locked onto the rod and does not slide. *Ninni* states that the arms are releasably locked onto the rods. *Ninni* states that the divider can be slid only when at least one arm is released from its corresponding rod. As such, the divider in *Ninni* is not slidably engaged to the rods when the divider is locked onto the rods.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation,

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In neither *Streater* nor *Ninni*, there is no suggestion or motivation for the rear portion of the divider to be slidably hooked onto the rear end of the board. In neither *Streater* nor *Ninni*, there is no suggestion or motivation for the divider to rear portion of the divider to be slidably hooked onto the rear end of the board over the rear edge of the board. In fact, it would be discouraged to combine the divider of *Ninni* with the board of *Streater*. A simple look at the horizontal rods held upward from the bottom board by a row of vertical bars of *Streater* would indicate that no divider arm of *Ninni* would possibly be able to slide along the horizontal rods with all of the vertical bars connecting to the horizontal rods of *Streater*.

See also *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

There is no teaching, suggestion, or motivation to combine the teachings of *Streater* and *Ninni*. Even if the teachings of *Streater* and *Ninni* were combined, it does not produce applicant's claimed invention because of the differences of the teachings of *Streater* and *Ninni* from the invention as discussed earlier.

Claim 17, 18, and 19 are newly added claims each claiming the one or more protruding members protruding from the bottom surface of the board near the rear end of the board. These claims should be allowed because no display board as taught in the present invention having such protruding members protruding from the bottom surface of the board near the rear end of the board is taught in the prior art.

Applicant submits, therefore, that with the amendment to the claims and specifications, and above arguments, independent claims 1, 7, and 13 along with the respective dependent claims 2 thru 6 and 8 thru 12, and 14 thru 19 should be allowed as the application is now in condition for allowance.

Respectfully submitted,

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